

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Patent Application of: Michael A. Masini

Application No.: 10/706,570

Confirmation No.: 6665

Filed: November 12, 2003

Art Unit: 3772

For: INVERTIBLE WOUND DRESSING AND
METHOD OF MAKING THE SAME

Examiner: T. Patel

APPELLANT'S REPLY BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Examiner's Answer mailed October 17, 2007, Appellant hereby submits his Reply Brief.

This reply brief is being submitted in response to new issues raised by the Examiner in the Examiner's Answer.

Beginning at page 6 of the Examiner's Answer, the Examiner makes the new argument that "Since the layer (38) [of Etheredge '753] is in direct contact with removable sheet (12) by adhesive (42), the sheets essentially define one layer and they must be in contact with the adhesive when pressed down on the wound or patient contacting surface." Appellant respectfully disagrees. The sheets 12, 38 and 40, 24 do not define one layer – they clearly define two layers. This is supported by the fact that they are temporarily adhered to one another over thin strips of adhesive 42, 41, which are intended to disengage when the bandage is applied. See, for example, Figures 4-6, where only sheets 38, 40 are present. In other words, sheets 30, 40 are removed from sheets 12, 24 even before the application process begins. It is interesting to note that the Examiner uses the following language: "The sheets essentially define one layer and *they* must be in contact ..."

(emphasis added). To any reasonable person, apparently including the Examiner, "it" would be used instead of "they" if "they" were to be considered a single sheet.

The Examiner's argument on page 9 of the Examiner's Answer that the adhesive strips 42, 44 should be aggressive "to prevent separation of layers 12, 38" makes it seem like the layers 12, 24 are never separated from layers 38, 40. In context, however, this adhesive should only be aggressive enough to prevent separation of the release sheets from the outer sheets "as they are pulled apart." ('753 patent 3:31, 32). After pulling these sheets apart, they are clearly detached for application purposes, as discussed above.

With regard to Appellant's "consisting of" claims, the Examiner's analysis is incorrect. The Examiner states on page 9 of the Examiner's Answer that "consisting of" is limited to "macro elements," which are the bandage portion only. However, the Examiner is using an argument associated with the use of "consisting of" in the body of a claim between two different elements. When "consisting of" is used in the preamble, *as Appellant is using it in this case*, it applies to the entire claim language, including the bandage and packaging portions.

Based upon the foregoing, Appellant continues to believe that this case is in condition for allowance and seeks the Board's concurrence at this time.

Respectfully submitted,

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